

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.524 of 2018

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1. Sheela Ignasius, wife of Late Ignasius Peter, Resident of Mohalla-Christian Quarter Bettiah, P.S. Bettiah Town, District-West Champaran
2. Richard Francis, son of Late Francis Nataal
3. Sister Serial Nataal Dokhtar @ Sister Siril D/o Late Nataal Ostaa, both are resident of Mohalla-Christian Toli, Bettiah, P.S. Bettiah Town, Dist. West Champaran

.... Petitioners

Versus

Aiwan William Nataal, son of Late William Joseph Nataal, Resident of Mohalla-Christian Quarter Bettiah, P.S.-Bettiah Town, Dist.-East Champaran

.... Respondent

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Appearance :

For the Appellant/s : Mr. Javed Aslam

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

2 06-08-2018 Heard both sides.

The petitioners have filed this Civil Miscellaneous petition against the order dated 01.12.2017 passed in Misc. Case No.01/2017 by learned Sub-Judge-6th, Bettiah, by which, the petition of the petitioners filed under Order 7 Rule 11 read with Section 151 of the Code of Civil Procedure has been dismissed.

The petitioners filed Partition Suit No.79/2016, which was decreed on compromise. The respondent no.1 was not party to the compromise decree. When the respondent no.1 came to know about the compromise decree, the respondent no.1 filed Misc. case for setting aside the compromise decree passed in Partition Suit No.79/2016. After admission of Misc. case the petitioners filed



petition that compromise decree cannot be set aside in a Miscellaneous case on the ground that the respondent no.1 was not party to the compromise decree. The respondent no.1 should have filed petition under Order 9 Rule 13 read with Section 151 of the C.P.C. or he should have filed appeal but this Miscellaneous petition is not maintainable. It is submitted that learned Sub-Judge-6, Bettiah has erroneously rejected the petition of the petitioners.

I find no substance in the submission of learned counsel for the petitioners on the simple ground that even if respondent no.1 claimed title over the land by virtue of will, which is alleged to have been forged, the same cannot be decided without bringing the said documents on record in evidence and Miscellaneous case has to be decided on merit and the learned Sub-Judge-6th, Bettiah has rightly dismissed the petition of the petitioners.

Accordingly, I do not find any merit in this Civil Miscellaneous petition. The same is dismissed.

(Prabhat Kumar Jha, J)

Amit/-

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